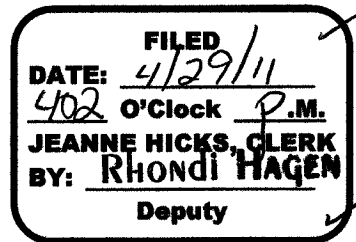


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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF YAVAPAI



DIVISION PRO TEM B

JEANNE HICKS, CLERK

HON. WARREN R. DARROW

BY: R. Hagen, Deputy Clerk

CASE NO. V1300CR201080049

DATE: April 29, 2011

TITLE:  
STATE OF ARIZONA,

COUNSEL:  
Yavapai County Attorney  
By Sheila Polk  
Bill Hughes  
(Via OnBase)  
(For Plaintiff)

(Plaintiff)

v.

JAMES ARTHUR RAY,  
  
(Defendant)

Thomas K. Kelly  
(Via Electronic Mail)  
(For Defendant)  
and  
Luis Li/Brad Brian/Truc Do/Miriam Seifter  
MUNGER TOLLES & OLSON LLP  
(Via Electronic Mail)  
(For Defendant *Pro Hac Vice*)

HEARING ON:  
JURY TRIAL – DAY 36  
START TIME: 8:41 a.m.

NATURE OF PROCEEDINGS

COURT REPORTER  
Mina Hunt

APPEARANCES:

Sheila Polk, Counsel for State  
Bill Hughes, Co-Counsel for State  
Detective Ross Diskin, Case Agent  
James Arthur Ray, Defendant  
Tom Kelly, Counsel for Defendant  
Luis Li, *Pro Hac Vice* Counsel For Defendant  
Truc Do, *Pro Hac Vice* Counsel For Defendant  
Miriam Seifter, *Pro Hac Vice* Counsel For Defendant

The Jury is not present.

Counsel are advised that there will not be a blanket rule about bench conferences, however the number of bench conferences will be monitored and controlled by the Court. Not all requests for a bench conference will be granted.

The Court addresses a previous ruling regarding prior sweat lodge ceremony comparisons and advises that it is appropriate for Detective Diskin to be able to explain that based on his investigation he was focusing on heat and that based on what was stated by the Mercers and other information, Detective Diskin believed there was a difference in the sweat lodge ceremonies by Mr. Ray compared to other sweat lodge ceremonies. Testimony along those lines, especially if in a leading fashion and relatively brief, for the Detective to explain his actions or investigation is appropriate.

The Court advises that in the State's previous pleading involving Dr. Kent there was mention that there had been a ruling that testimony that has come in so far is not relevant to cause or something to that effect. The Court previously ruled that is something an expert might say. There can be questions to experts having to do with the relevant testimony but it has to be in the context of what has already been presented to the Jury and presented in a factual form. The Court previously mentioned that testimony that has come in so far regarding prior sweat lodge ceremonies is admissible under other bases.

Further discussion ensues regarding phrasing of questions to Detective Diskin and his testimony.

The Court **directs** that a transcript of Dr. Lyon's testimony regarding heat stroke be provided to the Court.

Discussion continues.

Counsel for Defendant moves the Court to give a limiting instruction to the Jury. Discussion ensues. The Court will review case law on the issue.

Discussion ensues regarding the State's intent to offer JRI Articles of Incorporation and Defendant's objection thereto. The State clarifies the exhibit they intend to offer is Exhibit 809, a list of JRI Corporate Officers.

~~~Recess~~~

At 10:14 a.m. the trial resumes with all previously appearing parties and the Jury present.

Detective Ross Diskin resumes the witness stand and testifies.

Exhibits 399, 400 and 809 are offered and admitted into evidence without objection.

Exhibit 401 is offered. There being an objection by Counsel for Defendant, IT IS ORDERED sustaining the objection on foundation and the exhibit is not admitted.

Exhibit 401 is re-offered. There being an objection by Counsel for Defendant, IT IS ORDERED this exhibit will be addressed at recess and is not admitted at this time.

Exhibits 410 and 406 are offered. There being an objection, IT IS ORDERED the exhibit will be addressed at the recess.

Exhibit 408 is offered and admitted into evidence without objection.

Exhibit 345 is offered. There being an objection by the State, IT IS ORDERED overruling the objection and Exhibit 345 is admitted into evidence "conditionally".

The Jury and the witness are admonished and excused for a recess.

~~~Recess~~~

At 11:24 a.m. the trial resumes with all previously appearing parties and the Jury present.

Detective Ross Diskin resumes the witness stand and testifies.

Exhibit 505 is offered and admitted into evidence pursuant to stipulation of Counsel.

The Jury is admonished, excused for the noon recess and leaves the courtroom.

The Court instructs Counsel to reconvene at 1:20 p.m.

~~~Noon Recess~~~

At 1:28 p.m. the trial resumes with all previously appearing parties present. The Jury is not present.

The Court addresses the suggested limiting instruction. The Court instructs that the State's proposed Limiting Instruction be filed.

Counsel move the Court to recess early today to allow Counsel an opportunity to review exhibits.

The Court and Counsel address Defense Counsel's objection to exhibits. The Court believes the information is relevant and admissible. The Court finds that the cost paid for other JRI seminars would be relevant and can be admitted.

Exhibits 410, 401 and 406 are offered by Counsel for State. Argument ensues. The Court will admit the seminars the alleged victims participated in and the cost.

~~~Recess~~~

At 1:52 p.m. the Jury enters the courtroom.

Detective Diskin resumes the witness stand and testifies further.

The Court gives the Jury a limiting instruction.

Exhibits 486 and 487 are offered and admitted into evidence subject to submission of better quality photographs. The Clerk is **ordered** to substitute the new exhibits upon receipt.

Exhibits 540, 547, 539, 538, 537, 536, 535, 534, 533, 531, 530, 525, 524, 523, 521, 519, 517, 516, 515, 514, 513, 510, 509, 506, 501, 500, 499, 498, 495 and 494 are admitted into evidence without objection.

~~~Recess~~~

At 3:07 p.m. the trial resumes with all previously appearing parties and the Jury present.

Detective Ross Diskin resumes the witness stand for further testimony.

Exhibits 417 through 447 are offered. There being an objection by State, IT IS ORDERED sustaining the objection and Exhibits 417 through 447 are not admitted.

Exhibit 154 is offered. There is an objection by State. Counsel for Defendant moves on.

Exhibits 575, 576, 577 and 579 are offered and admitted subject to submission of a better quality exhibit to be substituted for and as admitted exhibits.

The Jury is admonished and excused for the weekend recess and exits the courtroom. The witness is excused for the recess.

The Court addresses foundation objections and encourages the parties to work those objections out.

Counsel for Defendant provides the Court with a transcript which the Court will review in regards to admissibility of evidence regarding seminar costs.

Counsel for State raises an issue regarding a possible instruction to the Jury not to measure a witness' credibility based on their beliefs. Discussion ensues. The Court will consider this.

The Court stands adjourned for the day.

**END TIME: 4:02 p.m.**

cc: Gallagher & Kennedy, P.C., Counsel for Shore Family (e)  
Murphy, Schmitt, Hathaway & Wilson, PLLC, Co-Counsel for Brown Family (e)  
Stone & Magnanini, Co-Counsel Brown Family (e)  
Aspey, Watkins & Diesel, PLLC, Counsel for Neuman Family (e)  
Steptoe & Johnson, Counsel for KPNX Broadcasting Company, TruTV and In Session (e)  
Perkins, Coie, Brown & Bain, Counsel KTVK-TV (e)  
Division PTB (e)  
Victim Services (e)  
Court Administration  
Customer Service Supervisor, Verde  
Mina Hunt, Division PT-B Court Reporter  
Exhibit Clerk, Camp Verde Superior Court